

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 384 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
  5. Whether it is to be circulated to the Civil Judge? : NO

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JAYANTIBHAI BAPULAL SHAH                      DECD THRU' HEIRS

Versus

YASHWANTRAO KASHINATH TELANG  
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Appearance:

MR MC SHAH for Appellants

MR SP HASURKAR for Respondent No. 1

For Respondent No.2 - GOVERNMENT PLEADER duly served absent.  
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CORAM : MR.JUSTICE H.H.MEHTA

Date of decision: 19/09/2000

ORAL JUDGEMENT

1. This is an appeal under Section 104(1) of CPC read with Order 43 Rule 1(r) of the CPC filed by applicant, Trust Application No.66 of 1992 (filed under Sec.72 of The Bombay Public Trust Act, 1950) which is

pending on the file of the learned District Judge, Vadodara (who will be referred to hereinafter as the learned Judge of the Court below) challenging the correctness, legality and propriety of the order dated 7th September, 1993 passed below application Ex.22 dated 12th January, 1993 presented by the respondent No.1 of this present appeal in proceeding of aforesaid Trust Application No.66 of 1992.

2. Here in this appeal, the appellants are the applicants and the respondent No.1 of this appeal is an opponent in Trust Application No.66 of 1992 and therefore parties will be referred to hereinafter as applicants and opponent respectively at appropriate places.

3. When this appeal came up for hearing before this Court, the learned advocates for both the parties jointly submitted to this Court that, without observing anything about the order challenged in this appeal and without assigning any reason in the judgment, this appeal may be disposed of by giving suitable directions to the learned Judge of the Court below.

4. Having heard the learned advocates for both the parties and on going through the grounds of appeal stated in appeal memo for this present appeal, this Court finds it necessary to dispose of the appeal by giving suitable directions to the learned Judge of the Court below.

5. In view of this, the learned Judge of the Court below is directed to hear and decide Trust Application No.66 of 1992 (filed under Sec.72 of the Bombay Public Trust Act) which is pending on file of his Court within six months from the date of receipt of writ of this Court, by affording full opportunity of being heard to both the parties, without being influenced in any manner by the order of this Court.

6. Both the parties are directed to extend full co-operation to the learned Judge of the Court below so as to enable him to dispose of the suit within a given time.

7. Meanwhile, the order dated 5th October, 1993, of this Court (Coram: K.R.Vyas, J.) passed in Civil Application No.3845 of 1993 in A.O. No.384 of 1993 shall continue to remain effective and operative till final disposal of the said Trust Application No.66 of 1992.

With the aforesaid directions, this appeal stands disposed of accordingly with no order as to costs.

(H.H. Mehta, J.)

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